

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DARIYA KOSOVAN,

Plaintiff,

CIV. S-04-1255-MCE PAN

v.

JO ANNE B. BARNHART,
Commissioner of Social
Security,

Findings and Recommendation

Defendant.

—oOo—

On March 21, 2005, I made an order requiring plaintiff to show cause why her complaint should not be dismissed for failure timely to serve process. On April 12, 2005, plaintiff filed an untimely response asserting "[o]n her own behalf and without assistance of counsel" she was never served with the answer or administrative transcript. The file, however, includes proof that she was duly served at the address she provided on October 14, 2004. The court has learned that this address

1 is not plaintiff's address but the address for Disability
2 Representative & Legal Services office. Plaintiff's response to
3 the order to show cause is inadequate because she does not
4 acknowledge proof the answer and record were duly served at the
5 address provided by plaintiff and that if she does not have the
6 papers the most likely explanation is that her agent did not
7 forward them or plaintiff did not pick them up. Furthermore,
8 plaintiff does not explain why, proof of due service having been
9 placed in the court file more than six months ago, plaintiff has
10 done nothing at all to make inquiry or obtain the documents.

11 Accordingly, I recommend this action be dismissed.

12 These findings and recommendation are submitted to the
13 Honorable Morrison C. England, Jr., the United States District
14 Judge assigned to this case. 28 U.S.C. § 636(b)(1). Written
15 objections may be filed within ten days after being served with
16 these findings and recommendations. The document should be
17 captioned "Objections to Magistrate Judge's Findings and
18 Recommendations." The failure to file objections within the
19 specified time may waive the right to appeal the District Court's
20 order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

21 Dated: April 18, 2005.

22 _____
23 /s/ Peter A. Nowinski
24 PETER A. NOWINSKI
25 Magistrate Judge
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